IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 26368 of 2007(L)

AGAINST THE ORDER IN IA.791/2007 IN OS.708/2002 of ADDL.M.C.,KOZHIKODE-II

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PETITIONERS:

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1. ISMALKUTTY HAJI, AGED 65 YEARS,
S/O. AHAMED HAJI, RESIDING AT MOOLATH,
MAVOOR AMSOM,KALAPPALLY DESOM,
KOZHIKODE TALUK.

2. AHAMMED BASHEER,S/O. POONTHOTATHIL
ISMALUTTY HAJI,AGED 37 YEARS,
RESIDING AT MOOLATH,MAVOOR AMSOM,
KALAPPALLY DESOM, KOZHIKODE TALUK.

3. ABDURAHIMAN,S/O. POONTHOTAHIL
ISMALUTTY HAJI,AGED 29 YEARS,
RESIDING AT MOOLATH,MAVOOR AMSOM,
KALAPPALLY DESOM, KOZHIKODE TALUK.

BY ADV. SRI.K.M.FIROZ

RESPONDENTS:

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1. NADUKKANDY MUHAMMED, AGED 60 YEARS
S/O. ABOOBAKCER,MAVOOR AMSOM DESOM,
KOZHIKODE TALUK.

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2. ALAVI, AGED 45 YEARS,
S/O. ALI HAJI,
KODAL THODIKAYIL MAVOOR AMSOM
PALANGATTU DESOM,KOZHIKODE TALUK.

3. BEERANKUTTY, AGED 53 YEARS,
S/O. KARMUNNEERI, UNNI AMARAM VEETTIL
MAVOOR AMSOM ,PALANGATTU DESOM,
KOZHIKODE TALUK.

4. MUHAMMED HAJI,AGED 50 YEARS
S/O.THIRIKKOTTU ALI HAJI,
PARUTHIPARAMMAL, MAVOOR AMSOM
KANNIPARAMBA DESOM,
KOZHIKODE TALUK.

5. MUNEER THIRIKKOT, AGED 27 YEARS
S/O. AHAMMED, MAVOOR AMSOM
KALPPALLY DESOM,
KOZHIKODE TALUK.

6. GRASSIM INDUSTRIES, REPRESENTED BY ITS
CHIEF EXECUTIVE OFFICER,RETIRED COLONEL K.K.MANU
NAIR,AGED 50 YEARS, FATHERS NAME NOT KNOWN,
GRASSIM INDUSTRIES,MAVOOR AMSOM DESOM.
KOZHIKODE TALUK.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

M.N.KRISHNAN, J

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W.P.(C) No.26368 OF 2007

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Dated this the 5th day of September 2007

JUDGMENT

This writ petition is filed against the order in I.A.No.791 of 2007 in O.S.No.708 of 2002. The suit is one for injunction. Defendants had raised a contention that a portion of the property claimed by the plaintiff which lies in B and C schedule properties had been acquired for the purpose of laying pipe for Grassim Industries and thereafter it has been used as a way by the inhabitants of the locality and therefore the plaintiff is not entitled to any relief. Now the plaintiff wants to implead Grassim Industries as a necessary party to the proceeding. The plaintiff's success depends upon the question whether he is entitled to the property and whether a portion of his property had been acquired for the Grassim Industries. If a portion of the property has been acquired and it is through that property the way passes, then necessarily the plaintiff will not be entitled to any relief. Therefore the junction of Grassim Industries is not necessary for resolving the dispute between the plaintiff and defendants in the case. If the plaintiff is able to establish his possession over the property, then naturally the plaintiff will be

entitled to the relief against the defendants.

Therefore, I do not find any illegality or irregularity committed by the court below in refusing to implead the Grassim Industries as a necessary party. Writ petition lacks merit and the same is dismissed. The observations contained in this judgment shall not be taken as a ground for suiting or non-suiting the plaintiff.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-